

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA, :
Plaintiff, : NO. 2:23-cr-00176-01
-vs- :
TIMOTHY BRIAN JACKSON, :
Defendant. :

REDACTED TRANSCRIPT

PLEA HEARING
BEFORE THE HONORABLE JOHN T. COPENHAVER, JR.,
SENIOR UNITED STATES DISTRICT JUDGE
JANUARY 25, 2024

APPEARANCES:

FOR THE PLAINTIFF:

AUSA JEREMY B. WOLFE

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FOR THE DEFENDANT:

RICO R. MOORE

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Proceedings recorded by mechanical stenography, transcript
produced by computer.

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Federal Official Court Reporter
300 Virginia Street, East, Room 6009
Charleston, WV 25301

1 P-R-O-C-E-E-D-I-N-G-S 1:39 p.m.

2 THE CLERK: All rise.

3 THE COURT: Good afternoon. Please be seated.

4 THE CLERK: The case before the Court is the
5 *United States of America versus Timothy Brian Jackson*,
6 Criminal Action Number 2:23-cr-00176.

7 Would counsel note their appearances for the record,
8 please.

9 MR. WOLFE: Good afternoon, Your Honor. Jeremy
10 Wolfe on behalf of the United States.

11 THE COURT: Thank you.

12 MR. MOORE: Good afternoon, Your Honor. Rico
13 Moore on behalf of Mr. Jackson, who is here in person, Your
14 Honor.

15 THE COURT: Thank you.

16 And, Mr. Wolfe, what is the purpose of the
17 hearing?

18 MR. WOLFE: Your Honor, the purpose of today's
19 hearing is to allow the defendant to change his previously
20 entered plea of not guilty and to enter a plea of guilty
21 pursuant to the single-count indictment, pursuant to a plea
22 agreement.

23 THE COURT: Thank you.

24 Mr. Moore, is that your understanding, as well?

25 MR. MOORE: It is, Your Honor.

1 THE COURT: Thank you.

2 THE CLERK: Will the defendant please stand and
3 raise your right hand to be sworn?

4 **TIMOTHY BRIAN JACKSON, DEFENDANT, SWORN**

5 THE CLERK: Thank you.

6 **EXAMINATION**

7 **BY THE COURT:**

8 **Q.** Mr. Jackson, state your full name, please.

9 **A.** Timothy Brian Jackson.

10 **Q.** And how old are you?

11 **A.** 44.

12 **Q.** What's the extent of your education?

13 **A.** Bachelor's degree from West Virginia State University.

14 **Q.** Is it fair to say that you read and read well?

15 **A.** Yes, Your Honor.

16 **Q.** Write and write well?

17 **A.** Yes, Your Honor.

18 **Q.** Were you able to read and understand the indictment in
19 this case?

20 **A.** Yes, Your Honor.

21 **Q.** And the plea agreement?

22 **A.** Yes, Your Honor.

23 **Q.** Have you at any time in the last few years been under
24 the treatment of a physician or anyone for a serious
25 physical illness or ailment?

1 **A.** Nothing serious, Your Honor.

2 **Q.** Have you ever had occasion to consult or to be under
3 the treatment of a psychiatrist, a physician, counselor,
4 psychologist, or anyone for a mental illness or for an
5 emotional disorder?

6 **A.** No, Your Honor.

7 **Q.** And do you take any medication?

8 **A.** No, Your Honor.

9 **Q.** During the past 48 hours, have you had any sedatives or
10 medication of any kind, any alcohol of any kind?

11 **A.** No, Your Honor.

12 **Q.** In the indictment in this case, you're charged with a
13 single count, and that count reads as follows:

14 On or about August 29, 2022, at or near St. Albans,
15 Kanawha County, West Virginia, and within the Southern
16 District of West Virginia, defendant, Timothy Brian Jackson,
17 knowingly and intentionally possessed with intent to
18 distribute 400 grams or more of a mixture and substance
19 containing a detectable amount of -- what is listed there
20 as -- N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]
21 propanamide, also known as fentanyl, a Schedule II
22 controlled substance.

23 Do you understand what's charged there?

24 **A.** Yes, sir.

25 **Q.** And that's charged to be a violation of Title 21,

1 United States Code, Section 841(a)(1).

2 Do you understand that, as well?

3 **A.** Yes, Your Honor.

4 **Q.** Let me note to you that if you went to trial on that
5 matter, in order for you to stand convicted of the charge
6 against you in that indictment, it would be necessary that
7 the government prove to the satisfaction of this Court and a
8 jury, beyond a reasonable doubt, each of the following three
9 essential elements of that offense, and they are as follows:

10 First, that on or about August 29, 2022, at or near St.
11 Albans, Kanawha County, West Virginia, you possessed with
12 the intent to distribute 400 grams or more of a mixture and
13 substance containing fentanyl, a Schedule II controlled
14 substance.

15 Do you understand the first element?

16 **A.** Yes, sir. Yes, Your Honor.

17 **Q.** At the time of your possession with intent to
18 distribute at that time, August 29, 2022, you knew that the
19 fentanyl you possessed was a controlled substance under
20 federal law?

21 Do you understand that?

22 **A.** Yes, Your Honor.

23 **Q.** And lastly, that you did that knowingly -- all of that
24 knowingly and intentionally.

25 Do you understand that, as well?

1 **A.** Yes, Your Honor.

2 **Q.** Now then, have you discussed the charges in this case
3 thoroughly with your attorney, Mr. Moore?

4 **A.** Yes, Your Honor.

5 **Q.** Has he counseled and advised you as to the nature of
6 the offense with which you're charged in the indictment?

7 **A.** Yes, Your Honor.

8 **Q.** And so far as you can tell, has he also counseled and
9 advised you as to all the defenses that you may have to
10 those charges?

11 **A.** Yes, Your Honor.

12 **Q.** Do you fully understand then that with which you're
13 charged?

14 **A.** Yes, Your Honor.

15 THE COURT: The Court understands that a plea
16 agreement has been entered into, and I'll ask if the
17 original of that agreement is at the lectern?

18 MR. WOLFE: It is, Your Honor.

19 THE COURT: May I see it, please?

20 BY THE COURT:

21 **Q.** Mr. Jackson, I have before me what appears to be a
22 10-page written plea agreement, to which there is a two-page
23 Stipulation of Facts attached.

24 The agreement is in letter form, and it is dated
25 January 2, 2024. It's addressed to your attorney, Mr.

1 Moore. And it's from the United States Attorney and signed
2 on his behalf by Mr. Wolfe as Assistant United States
3 Attorney.

4 Is that the plea agreement that you read?

5 **A.** Yes, Your Honor.

6 **Q.** And do you believe you understand everything in it?

7 **A.** Yes, Your Honor.

8 **Q.** Is there anything about it that you don't understand?

9 **A.** No, Your Honor.

10 **Q.** Notwithstanding your telling me that, I'm going to go
11 over this plea agreement with you paragraph-by-paragraph,
12 and as we do that, if there is anything about it that you
13 don't understand, I want you interrupt me just as we are
14 going through a particular paragraph, and we'll take it up
15 right then.

16 Do you promise to do that?

17 **A.** Yes, Your Honor.

18 THE COURT: And if the original of this could be
19 returned -- oh, yes, there is one matter of a minor note,
20 before sending it back to the defendant, on page 8, in what
21 is the sixth line of that page, there is set forth what the
22 Court reads to be "offense level 27, regardless of criminal
23 history category."

24 Are the parties in agreement that that's what that
25 says?

1 MR. WOLFE: Yes, Your Honor.

2 MR. MOORE: Yes, Your Honor.

3 THE COURT: And so, with that, let me ask that
4 that be returned to the lectern.

5 And, Mr. Moore, if you would retrieve that and place it
6 before the defendant.

7 BY THE COURT:

8 **Q.** And, Mr. Jackson, you may be seated as we go through
9 this.

10 The opening paragraph states that it's agreed by you
11 and the government as follows:

12 Number 1. Mr. Jackson is charged in a single-count
13 indictment with a violation of 21, U.S.C., Section 841(a)(1)
14 (Possession with the intent to distribute fentanyl).

15 And that, of course, is the charge I read to you.

16 Do you understand that?

17 **A.** Yes, Your Honor.

18 **Q.** Paragraph 2 states that Mr. Jackson will plead guilty
19 to the single-count indictment, charging a violation of 21,
20 U.S.C., Section 841(a)(1).

21 And I take it you understand that?

22 **A.** Yes, Your Honor.

23 **Q.** The next paragraph states the maximum, as well as the
24 mandatory minimum penalty to which you're exposed by virtue
25 of your guilty plea, and it states as follows: You're

1 subject to imprisonment for a period of a mandatory minimum
2 of 10 years to as long as life.

3 Do you understand that?

4 **A.** Yes, Your Honor.

5 **Q.** And to a fine of as much as \$10 million, as well as a
6 term of supervised release of at least five years; a
7 mandatory Special Assessment of \$100; and an order of
8 restitution as set forth there.

9 Do you understand all that so far?

10 **A.** Yes, Your Honor.

11 **Q.** The next paragraph has to do with the \$100 Special
12 Assessment, and it's indicated that that would have been
13 paid by this time.

14 Is that correct?

15 THE COURT: Mr. Moore, has that happened?

16 MR. MOORE: I'm sorry, Your Honor. Is that
17 correct what it says?

18 THE COURT: Has the \$100 Special Assessment been
19 paid?

20 MR. MOORE: No, it has not, Your Honor.

21 THE COURT: One of the conditions of the plea
22 agreement was that that would be paid by this time.

23 MR. MOORE: We have the money with us, Your Honor.
24 And we will pay it as soon as we --

25 THE COURT: So it will be paid before the day is

1 out?

2 MR. MOORE: Yes, Your Honor.

3 THE COURT: Well, so it will be understood then it
4 is sufficient, assuming that's agreeable with the United
5 States, that the \$100 be paid to the clerk later today?

6 MR. WOLFE: That will be fine, Your Honor.

7 THE COURT: Thank you.

8 BY THE COURT:

9 Q. The next paragraph has to do with forfeiture. And I
10 note that a notice of forfeiture is set forth in the
11 indictment. And I take it you're aware of that, Mr.
12 Jackson?

13 A. Yes, Your Honor.

14 Q. And this reference in the plea agreement has you
15 agreeing to forfeit to the United States any and all
16 property in your possession or under your control which
17 constitutes proceeds of or facilitated in the distribution
18 of controlled substances, including, but not limited to, the
19 following: 1. \$15,000 that was seized by law enforcement
20 officers on or about July 29, 2022, from a United States
21 Postal Service Priority Mail package bearing the tracking
22 number set forth there.

23 Do you understand that?

24 A. Yes, Your Honor.

25 Q. In addition to that, another \$20,501.63 in United

1 States currency seized by law enforcement officers on or
2 about August 29, 222, from the Chase Bank account with an
3 account number ending in 2080.

4 Do you understand that?

5 **A.** Yes, Your Honor.

6 **Q.** In addition to that, there are two weapons that are
7 also items that were seized during the execution of a search
8 warrant at [REDACTED] Way in South Charleston, West
9 Virginia. One is a Smith & Wesson, Model M&P 15, a 5.56
10 caliber, bearing the serial number set forth there and
11 related ammunition. Again, seized on or about August 29,
12 2022.

13 Do you understand that?

14 **A.** Yes, Your Honor.

15 **Q.** And the other weapon is a Panzer Arms, Model AR-12,
16 semiautomatic shotgun bearing the serial number set forth
17 there and related ammunition that was also seized by
18 officers on the same occasion.

19 Do you understand that?

20 **A.** Yes, Your Honor.

21 **Q.** And what this is saying is that you forfeit any other
22 property, apart from those four specific items, that would
23 have been in your possession or under your control that
24 constitute proceeds of or facilitated the distribution of
25 controlled substances.

1 Do you understand that?

2 **A.** Yes, Your Honor.

3 **Q.** Under the terms of that forfeiture provision in the
4 agreement, you agree to assist the United States in
5 identifying all such property, regardless of location, and
6 to aid the government in its effort to assemble all that
7 property that is to be forfeited, and to provide sworn
8 testimony, and execute any documents necessary to effectuate
9 the forfeiture.

10 Do you understand all that?

11 **A.** Yes, Your Honor.

12 **Q.** And then lastly, you waive any defenses to this
13 criminal action or to any related administrative or judicial
14 forfeiture action as set forth there.

15 Do you understand that, also?

16 **A.** Yes, Your Honor.

17 **Q.** The next paragraph consists of actually four paragraphs
18 under the title of "Payment of Monetary Penalties." Have
19 you read all that under that title, and do you understand
20 everything set forth in those four paragraphs?

21 **A.** Yes, Your Honor.

22 **Q.** The next paragraph on cooperation states that you will
23 be forthright and truthful with the United States Attorney's
24 Office and other law enforcement agencies with regard to all
25 inquiries made pursuant to this agreement, and that you'll

1 give signed, sworn statements, and grand jury and trial
2 testimony upon request of the United States.

3 Do you understand that?

4 **A.** Yes, Your Honor.

5 **Q.** The next two paragraphs have to do with use immunity
6 and limitations on immunity. Have you read those two
7 paragraphs; have you been over them with Mr. Moore; has he
8 explained them to you, and do you believe you understand
9 everything that's set forth there?

10 **A.** Yes, Your Honor.

11 **Q.** The next paragraph has to do with the two-page
12 Stipulation of Facts that is set forth as a part of this and
13 at the end of this agreement. And do you understand that by
14 Stipulation of Facts is meant agreement of facts?

15 **A.** Yes, Your Honor.

16 **Q.** That is, you are agreeing to the truth and accuracy of
17 everything set forth in that stipulation?

18 **A.** Yes, Your Honor.

19 THE COURT: And with that, I'm going to ask, Mr.
20 Wolfe, that you read the stipulation.

21 MR. WOLFE: Yes, Your Honor.

22 The Stipulation of Facts, as the Court mentioned
23 earlier, is a two-page document attached to the plea
24 agreement, Plea Agreement Exhibit A. The defendant has
25 signed and dated on the second page, along with his counsel

1 and myself.

2 And that document reads, beginning on the first page
3 under the heading entitled "Stipulation of Facts," the
4 United States and Timothy Brian Jackson, hereinafter
5 defendant, me, my, or I, stipulate and agree that the facts
6 comprising the offense of conviction, in the single-count
7 indictment in the Southern District of West Virginia,
8 Criminal Number 2:23-cr-00176, and the relevant conduct for
9 that offense, include the following:

10 Number 1. For several years prior to August 29, 2022,
11 I rented an apartment located at [REDACTED] Street,
12 Apartment 5, St. Albans, West Virginia. In and after
13 February 2022, I was living with my family at a house in
14 South Charleston, West Virginia, while still renting the
15 apartment in St. Albans.

16 2. On August 29, 2022, law enforcement officers
17 searched my apartment. Inside, they found various
18 quantities of pills, which I had pressed and imprinted with
19 "M30" markings to make them look like
20 legitimately-manufactured 30-milligram Oxycodone pills.
21 Some of these pills contained fentanyl, and others contained
22 Protonitazene or Butonitazene. Officers also seized various
23 quantities of powder containing these substances, a large
24 quantity of cash, two loaded pistols, pill press equipment,
25 various punch and die kits used to imprint pills with "M30"

1 markings, powder mixing equipment, and various binding
2 powders used to create pill tablets.

3 3. By that date, I was acquiring fentanyl powder from
4 a source outside the United States and
5 commercially-manufactured binding powder from a company in
6 the United States. I had also acquired "M30" punch and die
7 sets from China. I used all these powders and equipment to
8 create pills that appeared to be legitimate Oxycodone
9 30-milligrams pills, but which in fact contained fentanyl or
10 similar substances.

11 4. I used my apartment, primarily the basement of the
12 apartment, as a workshop for making these pills.

13 5. I intended to distribute the pills that I created
14 in my apartment. A package that I placed in the United
15 States mail on August 9, 2022, that was destined for
16 Connecticut, was intercepted by law enforcement officers and
17 searched. Inside the package, officers found several
18 hundred pills that I created in my apartment.

19 6. I agree that fentanyl is a Schedule II controlled
20 substance under federal law.

21 7. I also agree that St. Albans, Kanawha County, West
22 Virginia, is within the Southern District of West Virginia.

23 8. Finally, I agree that I am responsible for between
24 1,000 and 3,000 kilograms of converted drug weight.

25 This Stipulation of Facts does not contain each and

1 every fact known to me and the United States concerning my
2 involvement and the involvement of others in the charges set
3 forth in the indictment.

4 And, again, the defendant, his counsel, and myself have
5 signed the bottom part, page 2 of that document, Your Honor.

6 THE COURT: Thank you.

7 BY THE COURT:

8 Q. Mr. Jackson, do you understand everything in that
9 Stipulation?

10 A. Yes, Your Honor.

11 Q. Anything about it that you don't understand?

12 A. No, Your Honor.

13 Q. Is everything in it accurate?

14 A. Yes, Your Honor.

15 Q. Let me note to you that if you withdraw from this
16 agreement, or if it is voided because you've breached any of
17 its terms, and then you're subsequently tried on the charge
18 contained in the indictment, the Court notes that the
19 government may introduce during the course of that case
20 against you the stipulation of facts to which you've agreed.

21 Do you understand that?

22 A. Yes, Your Honor.

23 Q. And that evidence would be introduced before the Court,
24 or the Court and a jury, as the case may be, as evidence
25 against you at any point during the course of the case by

1 the government.

2 Do you understand that?

3 **A.** Yes, Your Honor.

4 **Q.** And in doing so, the government would be permitted to
5 note that you have agreed to the truth and accuracy of
6 everything that is in that agreement.

7 **A.** Yes, Your Honor.

8 **Q.** That is, in that stipulation. Do you understand that?

9 **A.** Yes, Your Honor.

10 **Q.** The next paragraph states that you and the government
11 have reached an agreement on the sentencing guidelines. I
12 want to note to you, first of all, that the Court is not
13 bound by the agreement that you and the government have.
14 Although the Court, of course, will be reviewing what you
15 agreed to to determine its accuracy.

16 Under the terms of this agreement, you agree that the
17 Base Offense Level for that which is charged in the
18 indictment is 30.

19 And you do not agree with the government that the
20 government appears, presumably, ready to contend that to
21 that Base Offense Level is added a number of enhancements
22 for characteristics of the offense, one of which is
23 possession of a firearm, which elevates the offense level by
24 two; another is maintaining a drug-involved premises , which
25 also elevates by another two levels; and knowingly

1 misrepresenting fentanyl as another substance in this case
2 as Oxycodone, it would appear, for which the elevation would
3 be four levels.

4 And so, you and the government agree that the Base
5 Offense Level is 30. You don't agree on these additional
6 eight levels that I've just gone over with you, but the
7 government appears ready to maintain them.

8 Do you understand all that?

9 **A.** Yes, Your Honor.

10 **Q.** Now then, I want to go over with you now the matter of
11 the sentencing guidelines. In this case, as the plea
12 agreement has already noted, you're subject to a mandatory
13 minimum term of 10 years' imprisonment.

14 Do you understand that?

15 **A.** Yes, Your Honor.

16 **Q.** And the term of imprisonment could be as long as life.
17 One of the things that the Court will be considering in
18 determining the sentence to impose are the United States
19 advisory sentencing guidelines. Those guidelines will
20 indicate a relatively narrow range in which you may be
21 sentenced. The Court is not bound by that range, but it's a
22 very important part of the sentencing process, and the Court
23 will be paying a great deal of attention to that range in
24 determining what sentence to impose.

25 Do you understand all that so far?

1 **A.** Yes, Your Honor.

2 **Q.** In determining what that guideline range is, a number
3 of factors are taken into account, and they include your
4 role in the offense to which you've pled guilty, your
5 criminal history, whether you've accepted responsibility for
6 your misconduct, and whether you have obstructed justice in
7 any way. The Court will also consider what may be relevant
8 conduct, that is, drug trafficking of this same or other
9 substances that are controlled substances under the law.
10 And the point about that is that the quantity of drugs
11 involved in those other activities, if there are any, could
12 be added to the quantity of drugs that is set forth in the
13 indictment.

14 Do you understand that?

15 **A.** Yes, Your Honor.

16 **Q.** And so when all those are added up, if there are other
17 items to be included, it may drive that Base Offense Level
18 up even higher than 30 as a starting point.

19 Do you understand that?

20 **A.** Yes, Your Honor.

21 **Q.** And so the Court will go through that process of
22 determining what that guideline range is. And once the
23 Court has the benefit of it, the Court then can evaluate the
24 guideline range in relation to many other factors in this
25 case to determine what the sentence should be.

1 Do you understand that?

2 **A.** Yes, Your Honor.

3 **Q.** And it may be that it is a sentence lower than the
4 guideline range, it may be a sentence above the guideline
5 range, or someplace within the range, but in no event will
6 it be less than the mandatory minimum of 10 years.

7 Do you understand all that?

8 **A.** Yes, Your Honor.

9 **Q.** Now then, the next paragraph notes that if you are
10 sentenced to an Offense Level of 38, and that would total,
11 for example, the 30 plus the enhancements of eight set forth
12 in this same document, if you're sentenced at that level,
13 coupled with your criminal history, or below it, you forever
14 waive your right to appeal your conviction and sentence in
15 this case.

16 Do you understand that?

17 **A.** Yes, Your Honor.

18 **Q.** And I note to you that in the process of this, you're
19 waiving one other very important right, as well. After
20 appellate rights have been exhausted or not used at all, you
21 may have a basis for attacking your sentence in what is
22 called a collateral attack. It's a kind of habeas
23 proceeding. Under the terms of this agreement, you're also
24 waiving your right to do that, as well.

25 Do you understand that?

1 **A.** Yes, Your Honor.

2 **Q.** And there is only one exception to all that I've told
3 you, and that is, you do have the right to appeal or
4 collaterally attack on the ground of ineffective assistance
5 of counsel, but that's the only one left to you if the Court
6 sentences you in accordance with this agreement and its
7 terms to an offense level that is no greater than 38, or if
8 it is lower.

9 Do you understand that?

10 **A.** Yes, Your Honor.

11 **Q.** By way of explanation, I would note to you that if your
12 Criminal History Category is I, which is the lowest
13 category, that is, you have no prior convictions --

14 **A.** No, Your Honor.

15 **Q.** If, for example, it turns out that the Court sentences
16 you at 38 and I, under the guidelines, the Guidelines range
17 for that is 235 to 293 months' imprisonment.

18 Do you understand that?

19 **A.** Yes, Your Honor.

20 **Q.** And so I just want to be sure that you are cognizable
21 of all of those factors, and it seems that you're
22 well-versed in them.

23 Let me note to you that you're also waiving a couple of
24 other rights in this matter, as well, and one is that you
25 are waiving your right to ever contend that the statute of

1 conviction, which is Title 21, United States Code, Section
2 841(a)(1), you're waiving your right to ever contend that
3 that statute is unconstitutional.

4 Do you understand that?

5 **A.** Yes, Your Honor.

6 **Q.** And you're also waiving your right to ever contend that
7 the facts that are set forth in the Stipulation of Facts are
8 insufficient to constitute such an offense.

9 Do you understand that, as well?

10 **A.** Yes, Your Honor.

11 **Q.** The next paragraph states that you waive your right to
12 request or receive any records pertaining to the prosecution
13 or investigation of your case.

14 Do you understand that?

15 **A.** Yes, Your Honor.

16 **Q.** Now, this states that you specifically waive that right
17 under the Freedom of Information Act and the Privacy Act of
18 1974, but you waive it on every other ground, as well.

19 Do you understand that?

20 **A.** Yes, Your Honor.

21 **Q.** The next paragraph refers to the final disposition,
22 which means sentencing. And there, it's noted that the
23 United States reserves the right to inform the Probation
24 Office and the Court of all relevant facts and conduct, to
25 present evidence and argument relevant to the factors that

1 are set forth in Title 18, Section 3553(a), and to respond
2 to questions raised by the Court.

3 Do you understand that, do you?

4 **A.** Yes, Your Honor.

5 **Q.** But I want to go back to a part of that, which has to
6 do with presenting evidence and argument relevant to the
7 factors that are set forth in Title 18, United States Code,
8 Section 3553(a).

9 That is the section of the statute that the Court looks
10 to in order to determine the factors to take into account in
11 imposing sentence in your case. One of those factors we've
12 already been over, the United States Sentencing Guidelines.

13 In addition to that, the Court will be taking into
14 account such things as your own personal characteristics,
15 characteristics of the offense. The Court will endeavor to
16 impose a sentence that will protect the public from further
17 criminal conduct on your part, as well as to protect not
18 only you but others from engaging in like conduct. The
19 Court will also be undertaking to impose a sentence that is
20 one that corresponds to the seriousness of the offense; one
21 that will command respect for the law, and quite a number of
22 other factors. I'm not going into, necessarily, all of them
23 with you today, but I simply wanted you to know that that is
24 the section of the statute that the Court looks to in order
25 to determine all those factors to be taken into account of

1 which many I have already mentioned.

2 Do you understand that?

3 **A.** Yes, Your Honor.

4 **Q.** The next paragraph states that if either you or the
5 United States violate the terms of this agreement, the other
6 party may void it.

7 Do you understand that?

8 **A.** Yes, Your Honor.

9 **Q.** And lastly, it's noted that this written agreement
10 constitutes the entire agreement between you and the United
11 States in this matter. Further, that there are no
12 agreements, understandings, or recommendations as to any
13 other pending or future charges against you in any Court,
14 other than this Court, the United States District Court for
15 the Southern District of West Virginia.

16 Do you understand that, as well?

17 **A.** Yes, Your Honor.

18 **Q.** And so, do you understand everything in your plea
19 agreement?

20 **A.** Yes, Your Honor.

21 **Q.** Is there anything about it that you don't understand?

22 **A.** No, Your Honor.

23 **Q.** Did you approve of this agreement when it was reached?

24 **A.** Yes, Your Honor.

25 **Q.** And when you signed it?

1 **A.** Yes, Your Honor.

2 **Q.** And do you approve of it now?

3 **A.** Yes, Your Honor.

4 **Q.** Is that your signature at the foot of the eighth page
5 of the agreement?

6 **A.** Yes, Your Honor.

7 **Q.** And the second page of the Stipulation of Facts?

8 **A.** Yes, Your Honor.

9 **Q.** And are those your initials at the foot of the other
10 pages?

11 **A.** Yes, Your Honor.

12 **Q.** Thank you.

13 THE COURT: And, Mr. Moore, you may return that
14 plea agreement to the lectern, please.

15 BY THE COURT:

16 **Q.** And, Mr. Jackson, you may stand again, if you would,
17 please.

18 Are you ready to enter a plea to the single-count
19 indictment in this case?

20 **A.** Yes, Your Honor.

21 **Q.** What is your plea?

22 **A.** Guilty, Your Honor.

23 **Q.** Before I accept your plea, I want to make certain that
24 you understand a number of things in connection with your
25 plea, the charges against you, and your constitutional

1 rights.

2 THE COURT: First of all, Mr. Moore, are you
3 appointed or retained counsel in this case?

4 MR. MOORE: Retained.

5 THE COURT: Pardon?

6 MR. MOORE: Retained.

7 THE COURT: Yes. Thank you.

8 BY THE COURT:

9 **Q.** Let me note to you, Mr. Jackson, that you have the
10 right to the assistance of a lawyer at every stage of these
11 proceedings, including trial, should you wish to go to
12 trial.

13 Do you understand that?

14 **A.** Yes, Your Honor.

15 **Q.** Do you further understand that if you're without funds
16 with which to engage an attorney to represent you at every
17 stage of these proceedings, including trial, should you wish
18 to go to trial, the Court would, should you qualify for lack
19 of sufficient assets, appoint counsel for you to represent
20 you without any cost whatever to you, but with that cost
21 being entirely to the United States.

22 Do you understand?

23 **A.** Yes, Your Honor.

24 **Q.** And in such event, all of the costs of this proceeding
25 would be entirely at the expense of the United States, as

1 well.

2 Do you understand that also?

3 **A.** Yes, Your Honor.

4 **Q.** Do you further understand that if you were instead to
5 enter a plea of not guilty, that you have the right to a
6 speedy and public trial by jury; you have the right to be
7 confronted by the government's witnesses and to
8 cross-examine them; you have the right to use the process of
9 this Court to compel witnesses to come in and testify on
10 your behalf; and you're presumed to be innocent of these
11 charges until proven guilty beyond a reasonable doubt.

12 Do you understand that?

13 **A.** Yes, Your Honor.

14 **Q.** Do you further understand that -- do you further
15 understand that if you instead pled not guilty and went to
16 trial, at that trial, you may take the witness stand and
17 testify in your own behalf?

18 Do you understand that?

19 **A.** Yes, Your Honor.

20 **Q.** Do you further understand that if you were to plead not
21 guilty and go to trial and chose not to testify, that fact
22 would create no inference or presumption of guilt, for, as
23 I've already indicated to you, you're presumed to be
24 innocent of these charges beyond a reasonable doubt?

25 Do you understand that?

1 **A.** Yes, Your Honor.

2 **Q.** Do you further understand that should you plead not
3 guilty, at the trial, it would be necessary that the
4 government come forward with witnesses to prove these
5 charges against you beyond a reasonable doubt?

6 **A.** I understand, Your Honor.

7 **Q.** Further understand that by entering a plea of guilty,
8 you waive your right to require the government to prove the
9 charges against you beyond a reasonable doubt, and you waive
10 your constitutional rights the Court's telling you about.

11 **A.** Yes, Your Honor.

12 **Q.** In particular, you waive your constitutional right with
13 respect to self-incrimination with respect to the offense to
14 which you've pled guilty as set forth in the indictment.

15 Do you understand that?

16 **A.** Yes, Your Honor.

17 **Q.** Do you also understand that if the Court accepts your
18 plea of guilty, there will not be a further trial of any
19 kind, so that by pleading guilty, you waive your right to
20 trial, including your right to trial by jury?

21 **A.** Yes, Your Honor.

22 **Q.** Do you also understand that the Court intends to
23 question you under oath, on the record, in the presence of
24 your attorney about the offense to which you've pled guilty,
25 and if you fail to answer those questions truthfully, you

1 may later be prosecuted for perjury or false swearing on
2 account of that failure?

3 **A.** Yes, Your Honor.

4 **Q.** Further understand that by pleading guilty, the Court
5 may impose the same penalty as if you'd stood trial and been
6 convicted of the offense charged in the indictment?

7 **A.** Yes, Your Honor.

8 **Q.** In that connection, the mandatory minimum penalty for
9 that which is charged in the indictment is imprisonment for
10 a mandatory minimum of 10 years.

11 Do you understand that?

12 **A.** Yes, Your Honor.

13 **Q.** And that the maximum is life? Do you understand that?

14 **A.** Yes, Your Honor.

15 **Q.** Do you also understand that you're subject to a term of
16 supervised release of at least five years?

17 **A.** Yes, Your Honor.

18 **Q.** And a fine of as much as \$10 million?

19 **A.** Yes, Your Honor.

20 **Q.** As well as a \$100 Special Assessment that you're going
21 to pay later today?

22 **A.** Yes, Your Honor.

23 **Q.** And restitution, as set forth in the plea agreement?

24 **A.** Yes, Your Honor.

25 **Q.** Do you understand what's meant by supervised release?

1 **A.** Yes, Your Honor.

2 **Q.** It's a very important part of your sentencing, and I
3 want to go over it, at least briefly, with you now.

4 As I've indicated, in addition to the term of
5 imprisonment that the Court will impose in this case, the
6 Court will also impose a term of supervised release, which
7 will be at least five years in length.

8 That term of supervised release will be subject to
9 various terms and conditions, some of which may limit your
10 freedom to some limited extent. The important thing about
11 it is this: If you violate any of those terms and
12 conditions, that means that your supervised release can be
13 revoked; and if it is, you can then be sentenced to a
14 further term of imprisonment in addition to that which you
15 would have already served for this offense, which could be
16 as long as another five years.

17 Do you understand that?

18 **A.** Yes, Your Honor.

19 **Q.** And if at that time the Court sentenced you to less
20 than another five years, you'd be placed on supervised
21 release once again; and if you violated those terms of
22 supervised release again, you could, once more, be sentenced
23 to a term of imprisonment of as long as five years.

24 Do you understand that?

25 **A.** Yes, Your Honor.

1 **Q.** And I would ask you, in light of that, if you have any
2 questions at all about the penalties to which you are
3 subject as a result of this plea?

4 **A.** No, Your Honor.

5 **Q.** Do you understand that the Court is not bound by your
6 plea agreement, but should the Court not accept it, you may
7 withdraw your plea of guilty?

8 **A.** Yes, Your Honor.

9 **Q.** Mr. Jackson, you have the right to plead not guilty,
10 and if there is any doubt whatever in your mind as to
11 whether you're guilty of this offense, the Court would urge
12 you to plead not guilty.

13 What is your wish?

14 **A.** To plead guilty, Your Honor.

15 **Q.** Other than your written plea agreement filed and read
16 here today, have you been made any promises by anyone of
17 leniency, or light sentence, or probation?

18 **A.** No, Your Honor.

19 **Q.** Have you been threatened by anyone in any way, has
20 anyone used any means of intimidation, or coercion, or
21 pressure to induce you to enter a plea of guilty against
22 your will?

23 **A.** No, Your Honor.

24 **Q.** And I would ask you, are you satisfied with your
25 attorney, Mr. Moore, in this case?

1 **A.** Yes, Your Honor.

2 **Q.** Do you feel that he has represented you fully and
3 fairly?

4 **A.** Yes, Your Honor.

5 **Q.** Has he spent a good deal of time with you developing
6 this case?

7 **A.** Yes, Your Honor.

8 **Q.** Now, back to your written plea of guilty under the
9 terms of the plea agreement. Aside from the plea agreement,
10 are there any side agreements with anyone about the sentence
11 to be imposed in this case?

12 **A.** No, Your Honor.

13 **Q.** Do you then offer to enter a plea of guilty to the
14 single-count indictment in this case, voluntarily and of
15 your own free will?

16 **A.** Yes, Your Honor.

17 **Q.** Do you do that with the full understanding that you'll
18 being waiving your constitutional rights the Court's told
19 you about, including your right to a fair and speedy trial
20 by jury?

21 **A.** Yes, Your Honor.

22 **Q.** And do you do it, as well, with the full knowledge of
23 the consequences of your plea, including the mandatory
24 minimum penalty that the Court must impose in this case, and
25 the maximum penalty that the Court may impose in this case?

1 **A.** Yes, Your Honor.

2 **Q.** Do you waive further reading of the indictment, or are
3 you satisfied that you fully understand that with which
4 you're charged?

5 **A.** I fully understand, Your Honor.

6 THE COURT: The clerk will take the defendant's
7 plea in writing.

8 THE CLERK: The *United States of America versus*
9 *Timothy Brian Jackson*, Criminal Action Number 2:23-00176.

10 Guilty plea.

11 In the presence of Rico R. Moore, my counsel, who has
12 fully explained the charge contained in the indictment
13 against me, and having received a copy of the indictment
14 from the United States Attorney before being called upon to
15 plead, I hereby plead guilty to the single-count indictment.

16 THE COURT: Mr. Moore, could you obtain the
17 original of that at the lectern?

18 MR. MOORE: Yes, Your Honor.

19 THE COURT: Thank you.

20 And if you would return that to the lectern, and
21 exhibit it to me on the way.

22 MR. MOORE: Yes, Your Honor. (Exhibiting
23 document.)

24 THE COURT: Thank you, sir.

25 The defendant's written plea of guilty, having

1 been signed by him in the presence of the Court with respect
2 to the single-count indictment in this case, is received and
3 filed.

4 BY THE COURT:

5 **Q.** Mr. Jackson, tell me in your own words what it is that
6 you did. What was your role in the offense in this matter?

7 **A.** There was a search warrant issued to my apartment that
8 I had in St. Albans. There were drugs there that I was
9 aware of that I was supposed to sell, and they found them.

10 **Q.** This matter seems to refer to the mailing of drugs.
11 Can you tell me about that?

12 (An off-the-record discussion was held between
13 defense attorney Moore and the defendant.)

14 THE DEFENDANT: Are you referring to the package
15 of the Mexicans -- the Mexicans gave me an address to send?

16 BY THE COURT:

17 **Q.** Yes. The package, as you call it?

18 **A.** The Mexicans gave me an address to send the package to;
19 I packaged the box, and I sent it out.

20 **Q.** And when was it that you sent it out?

21 **A.** The same day.

22 **Q.** Pardon?

23 **A.** The same day that they asked me to, sir.

24 **Q.** The same day as what, sir?

25 **A.** The 29th, Your Honor.

1 Q. Of what month?

2 A. Of August.

3 Q. What year?

4 A. 2022.

5 Q. And where were you at the time?

6 A. I was in St. Albans.

7 Q. And you mailed it where?

8 A. To Connecticut.

9 Q. And is it the case that the drugs that you're referring
10 to were within the package?

11 A. Yes, Your Honor.

12 Q. And what was the quantity?

13 A. Couple hundred of them, Your Honor. I really can't
14 remember.

15 Q. Couple hundred of what?

16 A. Pills, Your Honor.

17 Q. Do you have any idea what the weight was?

18 A. No, Your Honor.

19 Q. Is it fair to say that the weight was over 400 grams?

20 A. It was not over 400 grams, Your Honor.

21 Q. It was not?

22 MR. MOORE: Total.

23 THE DEFENDANT: Oh the total? Oh, yes, sir.

24 BY THE COURT:

25 Q. You say it would be fair to say the weight was over,

1 even if just over --

2 **A.** Yes, sir.

3 **Q.** -- 400 grams of fentanyl?

4 **A.** Yes, sir.

5 (An off-the-record discussion was held between defense
6 attorney Moore and the defendant.)

7 BY THE COURT:

8 **Q.** And at that time, a search warrant was executed, was
9 it, on your premises on [REDACTED]?

10 **A.** Yes, Your Honor.

11 **Q.** And I take it the items that are being abandoned or
12 forfeited pursuant to the terms of this agreement that we
13 went over, as set forth in the plea agreement, were found at
14 that time?

15 MR. MOORE: One second, Your Honor. I believe
16 there is some confusion. I need to speak with my client for
17 a second.

18 (An off-the-record discussion was held between defense
19 attorney Moore and the defendant.)

20 MR. MOORE: I believe we misspoke, Your Honor.
21 You asked him if the items were found on [REDACTED]. And I
22 believe [REDACTED] Drive was his actual residence in South
23 Charleston.

24 THE COURT: Yes.

25 MR. MOORE: That is not where the drugs were

1 found, Your Honor.

2 THE COURT: The drugs were found in the package, I
3 take it?

4 MR. MOORE: The drugs -- when you asked him if it
5 was over 400 grams.

6 THE COURT: Yes.

7 MR. MOORE: He believed that you were referring to
8 the total weight. The total weight that was found at the
9 apartment was over 400 grams.

10 What was in the package that was sent, I believe, was
11 100 to 200 pills. So that would not be 400 grams.

12 THE COURT: Were those fentanyl pills?

13 THE DEFENDANT: Yes, Your Honor.

14 BY THE COURT:

15 **Q.** And so, you've heard what Mr. Moore just stated. Has
16 he stated it correctly?

17 **A.** Yes, Your Honor.

18 MR. MOORE: The individual -- the things that you
19 referred to, the four items, the guns, at [REDACTED], that is
20 correct, Your Honor, that is his residence.

21 THE COURT: Thank you.

22 BY THE COURT:

23 **Q.** And with that, I would ask whether or not it's fair to
24 say that, as well, that you knew at the time you undertook
25 to send off that package, as well as when you were in

1 possession of any other fentanyl, that the fentanyl was a
2 controlled substance under federal law?

3 **A.** Yes, Your Honor.

4 **Q.** And I would ask whether or not the defendant has
5 anything further with respect to the factual basis for the
6 plea?

7 **A.** No, Your Honor.

8 THE COURT: Nothing further, Mr. Moore?

9 MR. MOORE: Nothing, Your Honor.

10 THE COURT: And does the government?

11 MR. WOLFE: No, Your Honor.

12 THE COURT: Could the government summarize it?

13 MR. WOLFE: Yes, Your Honor. Essentially, this
14 investigation --

15 THE COURT: And, Mr. Jackson, listen very
16 carefully to what Mr. Wolfe says, because I'm going to ask
17 you if it's correct here in a moment.

18 Please go ahead.

19 MR. WOLFE: Thank you, Your Honor.

20 In the months leading up to August 29, 2022, law
21 enforcement officers began to suspect that Mr. Jackson was
22 distributing quantities of fentanyl in pill form. So based
23 on surveillance, and several instances of retrieving Mr.
24 Jackson's trash from the [REDACTED] Street, St. Albans,
25 apartment, officers obtained a search warrant that was

1 executed on August 29, 2022, at Mr. Jackson's apartment
2 located on [REDACTED] Street, in St. Albans, Kanawha County,
3 West Virginia.

4 Inside the apartment, officers found various quantities
5 of powders and various completed pills. The completed
6 pills, numbering around 10,000, and certainly more than 400
7 grams of fentanyl between the powder and the pills, but the
8 various quantities of pills and powders were sent off to the
9 Drug Enforcement Administration's Mid-Atlantic Laboratory
10 and confirmed to contain fentanyl, again, in excess of 400
11 grams.

12 The apartment also contained various tools and
13 machinery used to press powders into pill form and to stamp
14 the pills with "M30" markings, typically associated with
15 legitimate pharmaceutical manufactured oxycodone pills that
16 are 30 milligrams in weight.

17 Also, as part of the investigation, and prior to the
18 search warrant being executed, the officers became aware
19 that the defendant had placed a package in the United States
20 mail, which actually took place on August 9th, 20 days prior
21 to the search warrant being executed, also in 2022.

22 The package was intercepted with the assistance of
23 postal inspectors. And a federal search warrant was
24 obtained for the package.

25 The package was searched, and several hundred pills

1 were retrieved from the package also marked "M30." And it
2 was confirmed the defendant had placed that package in the
3 mail.

4 THE COURT: And the pills consisted of what?

5 MR. WOLFE: Those pills actually came back with a
6 synthetic opioid, not fentanyl, referred to as
7 Protonitazene, which is another controlled substance.

8 THE COURT: Thank you.

9 BY THE COURT:

10 Q. And you've heard what Mr. Wolfe stated in his entirety.
11 Did he state it correctly?

12 A. Yes, Your Honor.

13 Q. Thank you.

14 THE COURT: And, Mr. Moore, does the defendant
15 have anything further with respect to the factual basis for
16 the plea?

17 MR. MOORE: No, Your Honor.

18 BY THE COURT:

19 Q. I'll ask you then, Mr. Jackson, did you do the acts to
20 which you've pled guilty as more fully set forth in the
21 indictment in this case?

22 A. Yes, Your Honor.

23 Q. At the time you did those acts, did you know and
24 understand and intend what you were doing?

25 A. Yes, Your Honor.

1 **Q.** Are you pleading guilty then because you are, in fact,
2 guilty of that which is charged in the single-count
3 indictment in this case?

4 **A.** Yes, Your Honor.

5 **Q.** Do you understand all the proceedings that have taken
6 place here today?

7 **A.** Yes, Your Honor.

8 **Q.** And do you wish to go forward with your plea of guilty?

9 **A.** Yes, Your Honor.

10 **Q.** Thank you. And you may be seated.

11 THE COURT: The Court finds there is a factual
12 basis for the plea, it is entered freely and voluntarily,
13 and with the full knowledge of the consequences of the plea,
14 including the possible penalty that the Court may in this
15 case impose.

16 The Court accepts and approves the plea agreement, and
17 finds that agreement adequately protects the rights of the
18 defendant, and is in the interests of justice.

19 Accordingly, the Court accepts your plea of guilty,
20 sir, and upon your plea of guilty, it is the judgment of the
21 Court that you're guilty of the charges contained in the
22 indictment in this case, and you stand convicted of one
23 violation of Title 21, United States Code, Section
24 841(a) (1).

25 The Court will direct a presentence investigation by

1 the Probation Department of this Court, and continues your
2 case for sentencing until April 25, 2024, at 1:30 in the
3 afternoon.

4 Is that a satisfactory date and hour for counsel?

5 MR. WOLFE: Yes, Your Honor.

6 MR. MOORE: I believe so, Your Honor.

7 THE COURT: Can you check it out, Mr. Moore?

8 MR. MOORE: April 25, Your Honor, 1:30?

9 THE COURT: Yes. Does that work?

10 MR. MOORE: Yes, Your Honor.

11 THE COURT: Very good.

12 And so, with that, I would ask if the parties have
13 anything further?

14 MR. WOLFE: No, Your Honor.

15 MR. MOORE: Nothing at this time, Your Honor.

16 THE COURT: The Court notes the mandatory nature
17 of the statute that directs that the defendant be at this
18 juncture incarcerated.

19 Do the parties wish to address that?

20 MR. WOLFE: I have nothing to add, Your Honor.

21 THE COURT: Nothing to add to what?

22 MR. WOLFE: Your Honor, I understand the Court's
23 concern, given the mandatory minimum penalty.

24 I would note that Mr. Jackson has not had any issues
25 while he's been on bond for some length of time, not only

1 since he's been charged, but since the investigation began.

2 And if the Court believes the defendant needs to be
3 incarcerated at this point, given the penalties, I
4 understand the Court's concern. However, it's not the
5 United States' -- I did not intend to move for him to be
6 detained at this point, given his performance on bond up to
7 this point.

8 THE COURT: Under the statute, how does the Court
9 avoid it in this case?

10 The maximum is life, a controlled substance offense.
11 The Court's received the plea of guilty; the defendant
12 stands convicted.

13 How is it under the statute that the Court can release
14 him?

15 MR. WOLFE: I'm not certain the Court can, Your
16 Honor. I know the Court has to find exceptional
17 circumstances. I'm not certain what those would be in this
18 case.

19 I just wanted to note that the defendant has done well
20 on bond, and to the extent that matters. I also understand
21 the way the statute is constructed, and the fact that I'm
22 not certain there are exceptional circumstances, Your Honor.

23 THE COURT: Thank you.

24 MR. MOORE: Your Honor, I understand the way the
25 statute is constructed, as well. However, in this case,

1 Your Honor, I do think there are exceptional circumstances.
2 And given the fact from the day he was arrested, he has been
3 cooperative, and he's continued to be cooperative, Your
4 Honor.

5 He's been on -- that was prior to even being indicted,
6 Your Honor. It was at least a year before he was ever
7 indicted.

8 Once indicted, he was placed on bail. He's been on
9 bail since November. He's been an exemplary person to have
10 on bail. He maintains a residence here, Your Honor. He --
11 there are no factors that would lead one to believe he is a
12 danger to the community nor that he would not appear.

13 In addition, Your Honor, he has additional
14 responsibilities involving a relative, who is handicapped,
15 that he does continue to take care of and has since the
16 beginning of his bond, Your Honor. And without his
17 presence, Your Honor, that would present a real issue for
18 his family and for that particular individual herself, Your
19 Honor. She is handicapped. I don't just mean physically,
20 but in -- mental, mental issues, Your Honor. And he is the
21 person, and the only person, that has been taking care of
22 her and that continues to take care of her in this case,
23 Your Honor.

24 So I think there are some circumstances, and I think
25 given his prior performance -- pre-indictment performance

1 and since indictment, Your Honor, I think this is a
2 situation in which the Court could take an exception, and he
3 could continue bail at this point, Your Honor.

4 THE COURT: The only thing I've heard that comes
5 close to anything other than ordinary circumstances is
6 something with respect to a handicapped relative.

7 MR. MOORE: Yes.

8 THE COURT: But that has not been elaborated upon.
9 I don't understand the factors that are at play.

10 MR. MOORE: One second, Your Honor.

11 (An off-the-record discussion was held between defense
12 attorney Moore and the defendant.)

13 MR. MOORE: Your Honor, to elaborate on the issues
14 of his -- I believe it's his aunt, his great aunt, Gladys.
15 She suffers from cerebral palsy. She has mental
16 deficiencies. She physically relies upon him emotionally --
17 well, sorry -- she relies on him physically, as well as
18 emotionally, to take care of her, Your Honor.

19 Without his presence there, she would probably -- well,
20 there is no probably -- she is going to have severe issues
21 dealing with life, in general, Your Honor.

22 I know we are well aware he is going to prison, but if
23 he's released, it would give him an opportunity to put some
24 things in place that would allow her to continue to,
25 hopefully, you know, deal with the situation, and put people

1 in place that would, hopefully, take his place so that she
2 could continue to deal with life, Your Honor.

3 I'm not someone who has ever dealt with somebody in
4 that position personally, but I've seen him hands-on with
5 her, and I've seen the way she responds, Your Honor. And
6 it's a situation in which she relies upon him, Your Honor.
7 Not just he wants to be there, but she relies upon him, and
8 him alone. Because the bond has been such that he's been
9 taking care of her for so long, that without him being
10 there, Your Honor, I'm not exactly sure how that situation
11 is going to play out, Your Honor.

12 So I think that, given the situation and the physical
13 and mental disabilities that she has, and the position that
14 he holds in her life, Your Honor, I believe that, given the
15 opportunity, that would satisfy the exceptional
16 circumstances necessary, Your Honor, in this case.

17 That, plus his -- as the government has already spoken
18 to, his performance prior to and since indictment, Your
19 Honor. I think that we could satisfy the requirements.

20 THE COURT: Mr. Moore, you referred to the
21 relationship between the two. What is the relationship? Is
22 there a blood relationship?

23 MR. MOORE: Yes. It's his great aunt, Your Honor,
24 his aunt.

25 THE COURT: And where does she live?

1 MR. MOORE: She lives in Dunbar, Your Honor.

2 THE COURT: In Dunbar?

3 MR. MOORE: Yes.

4 THE COURT: And where does he live?

5 THE DEFENDANT: In South Charleston.

6 MR. MOORE: In South Charleston.

7 THE COURT: And is there anyone else living with
8 the aunt?

9 MR. MOORE: She has a sister, Your Honor, but the
10 day-to-day requirements, he takes care of. He's there
11 daily.

12 THE COURT: You are at liberty to add anything
13 that may be helpful to your suggestion. I would simply
14 invite you to do that now if there is anything further.

15 (An off-the-record discussion was held between defense
16 attorney Moore and the defendant.)

17 MR. MOORE: Your Honor, I know she lives with
18 another individual, but these are both elderly women, Your
19 Honor. His aunt is 72, and he has taken care of her,
20 basically, since he was a teenager, even when he was in
21 school and college. That's what he's done, and that's what
22 he's continued to do, Your Honor. So it's not a situation
23 where somebody could simply step in and say, hey, I'm going
24 to be here today.

25 This is a situation in which there has been a bond.

1 It's been there almost for life. She's much older than he
2 is, but he has always taken on that responsibility, Your
3 Honor. And to do so, to just take him away, without putting
4 somebody or things in a position to help her transition,
5 Your Honor, in my opinion, I think it would probably do her
6 irreparable emotional harm, Your Honor.

7 THE COURT: Thank you.

8 Do the parties have anything further on the question of
9 release or custody?

10 MR. WOLFE: No, Your Honor.

11 THE COURT: There being nothing further, the Court
12 recognizes that the defendant has been compliant while on
13 bond and is likely not a threat or danger to any other
14 member of the community, and is not a threat to flee.

15 The Court does not find exceptional circumstances.
16 Although, the Court will think in those terms to the limited
17 extent of permitting the defendant over the long weekend to
18 make such arrangements as he thinks appropriate for the
19 aunt, and will, as a consequence, be constrained under the
20 statute to require the defendant be taken into custody on
21 Monday, by 2:00 p.m., by which time he's to report to the
22 Marshals Office in this building to be placed in custody
23 until sentencing.

24 And so, the Court will permit the defendant to remain
25 free until that time.

1 But it's up to you voluntarily, Mr. Jackson, to report
2 to the Marshals Office in this building by 2:00 p.m. on
3 Monday, so that you'll have a few days here over the weekend
4 to try to make arrangements to assist in the future care of
5 your aunt.

6 With that, I would simply note that you're remanded to
7 the custody of the United States Marshal as of that hour on
8 Monday.

9 And I would ask if the parties have anything further at
10 this time?

11 MR. WOLFE: No, Your Honor.

12 MR. MOORE: Nothing, Your Honor.

13 THE COURT: We'll stand continued until
14 sentencing.

15 Thank you.

16 THE CLERK: All rise.

17 (Proceedings concluded at 2:44 p.m.)

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1 CERTIFICATE OF OFFICIAL REPORTER

2 I, Catherine Schutte-Stant, Federal Official Realtime
3 Court Reporter, in and for the United States District Court
4 for the Southern District of West Virginia, do hereby
5 certify that, pursuant to Section 753, Title 28, United
6 States Code, the foregoing is a true and correct transcript
7 of the stenographically reported proceedings held in the
8 above-entitled matter and that the transcript page format is
9 in conformance with the regulations of the Judicial
10 Conference of the United States.

11 s/Catherine Schutte-Stant, RDR, CRR

12 _____ November 25, 2024

13 Catherine Schutte-Stant, RDR, CRR
14 Federal Official Court Reporter

15 **REDACTION CERTIFICATE**

16 I certify that the foregoing is a true and correct copy of
17 the transcript originally filed with the Clerk of Court on
18 November 27, 2024, and incorporating redactions of personal
19 identifiers requested by the following attorney of record:
20 Jonathan D. Byrne, in accordance with Judicial Conference
21 policy. Redacted characters/pages appear as a black box in
22 the transcript. Date: January 23, 2025.

23 /s/ CATHERINE SCHUTTE-STANT, RDR, CRR

24 _____
25 CATHERINE SCHUTTE-STANT, RDR, CRR
FEDERAL OFFICIAL COURT REPORTER